

Remarks

Claims 1 - 24 are pending in this application. No amendments have been made to the claims or specification.

In item # 2 on page 2 of the office action dated 1/07/2003, the Examiner has provisionally rejected Claims 1 – 24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 25 of co-pending Application No. 10/014,957.

In items # 3 and 4 on page 2 of the office action, the Examiner has rejected Claims 1 – 24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 25 of issued US 6,362,287 and 6,362,288 patents respectively.

In items # 5 on page 3 of the office action, the Examiner has rejected Claims 1 – 10, 12-21, and 22-24 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 18 – 22, 26 – 29, and 32 of issued US 6,281,286.

Applicant respectfully submits a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome all these provisional rejections based on the nonstatutory double patenting. Applicant's terminal disclaimer is based on US 6,281,286, which has the earliest file date of the patent applications or issued patents cited in the above obviousness-type double patenting rejections.

In item # 7 on page 3-4 of the office action, the Examiner asserts Claims 1 – 10, 12-21, and 22 - 24 are directed to an invention not patentably distinct from claims, 1, 18 to 22, 26 to 29 and 32 of commonly assigned 6,281,286. The Examiner further explains commonly assigned 6,281,286 would form the basis for a rejection of the noted claims under 35 U.S.C. 103(a) if the commonly owned case qualifies as prior art under 35 U.S.C. 102(f) or (g) and the conflicting inventions were not commonly owned at the time the invention in this application was made. In order to resolve this issue, the assignee is required under 37 CFR 1.78(c) and 35 U.S.C. 132 to either show that the conflicting inventions were commonly owned at the time of invention in this application was made or to name the prior inventor of the conflicting subject matter.

Applicants respectfully provide the Examiner with the following information in order to show that there was co-ownership and preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case as a reference under 35 U.S.C. 102(f) or (g);

U.S. Patent Application Serial No. 10/015,155 (present application) was assigned to Dow Corning Corporation, and such assignment recorded on 4/23/2002 at reel 012846, frame 0598 by the USPTO.

U.S. Patent 6,281,286 (basis for rejection) was assigned to Dow Corning Corporation and such assignment recorded on 11/08/1999 at reel 010366, frame 0001.

In view of the above, it is respectfully submitted that the claims are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance of claims at an early date is solicited.

The present response is being submitted within the three month shorten statutory period for response to the outstanding Office Action. Applicant hereby authorizes the USPTO to charge deposit account 04-1520 for any fees necessary to maintain the pendency of the application.

Respectfully submitted,

DOW CORNING CORPORATION



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